

REMARKS

Reconsideration of the present application is respectfully requested.

Summary of Office Action

Claims 1-4, 6, 8-19, 21-33, 37, 39-43, 45, 49, 51, 52, 57-63 and 65 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,032,031 of Jungck et al. ("Jungck").

Claims 44 and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jungck in view of US Patent No. 6,134,588 of Guenther et al. ("Guenther").

Summary of Response

Applicant respectfully traverses all rejections. Claims 1, 15, 23, 26, 32, 37, and 49 have been amended. Claims 44-46 have been canceled. No new matter has been added.

Interview Summary

A telephonic interview was conducted between the Applicant's representative and Examiner Bilgrami on 12/24/2009. Independent claim 1 was discussed relative to the cited references in the § 103 rejections. The parties did not reach any particular agreement.

Discussion of 35 U.S.C. § 103 Rejections**Independent Claims 1, 15, 23, 26, 32, 37, and 49**

Independent claims 1, 15, 23, 26, 32, 37, and 49 recite, in relevant part, "a rule engine to determine an availability of the host indicated in said rule and, if the host is available, to select the host as a forwarding destination and to cause the request processing unit to forward the request to the host according to said rule, wherein the request processing unit is further to use a timeout period in attempting to establish a connection with the forwarding destination, the timeout period based on information indicative of a responsiveness of the forwarding destination, wherein the information indicative of the responsiveness of the forwarding destination comprises information indicative of a loading on, or a response time of, the forwarding destination, and wherein the timeout period is computed in response to the request being received." The cited references, either individually or in combination, do not disclose or suggest these features.

Although Applicants' arguments are directed to the alleged combination of references, it is necessary to first consider their individual disclosures, in order to ascertain what combination, if any, could be made from them.

The Applicants wish to thank the Office for recognizing that Jungck does not disclose the above discussed features. (See Office Action, page 6). Specifically, the Office acknowledged that Jungck does not expressly disclose "wherein the request processing unit is further to use time out period in attempting to establish a connection with the forwarding destination, the time out period having been computed based on

information indicative of a responsiveness of the forwarding destination." (Office Action, page 6).

Likewise, Guenther is also distinguishable from the above discussed features and does not disclose the limitations that are missing from Jungck. Guenther is directed to a client-server computing architecture for "ensuring that a Web browser obtains high availability to Web service." (Col. 1, lines 6-9). Jungck discloses maintaining a list of servers that a browser can connect to, and selecting one of the servers according to certain "policies." (Col. 5, lines 45-59). Jungck discloses that "if a particular server fails to "respond in response to a selected IP address," a "timeout" policy" is enforced. Accordingly, Jungck merely provides that a browser (i.e., a client) uses a "time out" to determine availability of a particular server. However, Jungck does not at all disclose or even suggest that such a timeout period is "based on information indicative of a responsiveness of the forwarding destination," much less that the "information indicative of the responsiveness of the forwarding destination comprises information indicative of a loading on, or a response time of, the forwarding destination."

As such, the cited references, either individually or in combination, do not disclose or suggest the above limitations. Therefore, Applicants respectfully submit that the cited combination does not render the claimed invention obvious. For at least these reasons, therefore, independent claims 1, 15, 23, 26, 32, 37, and 49 are thought to be patentable over the cited art. Additionally, all claims dependent on claims 1, 15, 23, 26, 32, 37, and 49 are also thought to be patentable over the cited art, at least by virtue of being dependent from the independent claims. Therefore, Applicants respectfully request the Examiner to withdraw the § 103 rejections to the above mentioned claims.

Applicants have not necessarily discussed here every reason why every pending independent claim is patentable over the cited art; nonetheless, Applicants are not waiving any argument regarding any such reason or reasons. Applicants reserve the right to raise any such additional argument(s) during the future prosecution of this application, if Applicants deem it necessary or appropriate to do so.

Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

CONCLUSION

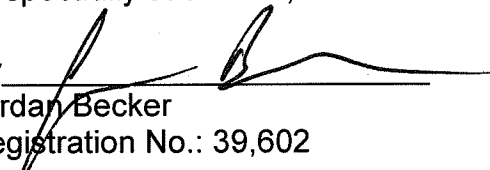
In light of the amendments and the preceding arguments, the applicant respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance.

If the Examiner believes that a conference would be of value in expediting the prosecution of this application, he is cordially invited to telephone the undersigned counsel at (650) 838-4300 to arrange for such a conference.

For any required fees, please charge our Deposit Account No. 50-2207, under Order No. 67272-8049.US01 from which the undersigned is authorized to draw.

Dated: 2/1/10

Respectfully submitted,

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